



March 15, 2004

Via email and First Class Mail

Mary Jo Harris, Esq.
Office of the Legal Counsel
Boston Police Department
One Schroeder Plaza
Boston, MA 02120-2014

Dear Mary Jo:

This letter is in response to the meeting held on Wednesday, March 4, 2004, with the ACLU of Massachusetts and the National Lawyers Guild – Massachusetts Chapter, and representatives of the Boston Police Department, the Massachusetts Attorney General, the U.S. Attorney, the City of Boston, the Massachusetts State Police and the Democratic National Convention Committee. We are writing because we are concerned that the current plans for the siting of the Democratic National Convention do not adequately address the Constitutional protections for peaceful assembly and free speech that are an essential part of our democratic political process.

Any plan for a peaceful convention must take into account that a number of groups intend to engage in constitutionally-protected political protest/free speech activities focused on the DNC. Some activities are likely to involve parades or marches and most groups will seek an assembly area within sight and sounds of the FleetCenter. It is fair to assume that some of these activities will attract large numbers of people. The present DNC plans, which place greater emphasis on parking, media access, and convenience for convention participants, are inadequate to fairly address the First Amendment rights of our citizens.

First, the currently proposed so-called "Demonstration Zone" is in the middle of a construction site, it has a large hole in the middle of it where train tracks run, and there is the very real possibility that the Big Dig construction work, which currently severely limits access to the Demonstration Zone, will still be ongoing at the time of the convention.

Second, the proposed space is too small to accommodate what we have reason to believe could be well thousands of demonstrators. According to the *Boston Globe*, the proposed Demonstration Zone will accommodate only 400 people. This is clearly inadequate.

Third, the proposed demonstration zone is too far away from the convention site for demonstrators to be seen or heard by their intended audience. Delegates arriving by bus will be walking directly away from the Zone, with their backs to any demonstrators. This absence of a sufficient opportunity for demonstrators to address the arriving delegates undercuts the very essence of the guarantees of the First Amendment.

Finally, there do not appear to be any reasonable plans made to accommodate marches or parades arriving at the FleetCenter from other locations in central Boston. There does not appear to be any route that will allow a significant number of marchers to pass through the soft security zone within site and sound of the FleetCenter or to allow a march/parade to terminate in an area that would allow demonstrators First Amendment access to the convention delegates.

We believe it is in the interests of the City of Boston, the Democratic National Convention and the people of Massachusetts that there be suitable and adequate provisions for the people who have a message to convey to the leaders of the Democratic Party and its presidential candidate. In balancing the security needs of the convention and in allocating space for competing uses in the vicinity of the FleetCenter, the convention planners must recognize that freedom of expression should hold a preferred position. To this end, we believe that the existing plan can and should be modified in several respects:

1. The border between the soft zone and the hard zone should be moved back so that Causeway Street lies within the soft zone. This would open a large area in front of the FleetCenter to public access, including marches, parades and demonstrations. It would also allow easier access by emergency vehicles and would certainly be preferred by Causeway Street merchants.
2. The opaque covering which is planned for the security fence along Causeway Street should be removed as it prevents any meaningful communication between those inside the hard zone and those on the outside.
3. The area which has been set aside for the delegates' buses should be modified or relocated to allow placement of the "demonstration area" in the area at the intersection of Haverhill and Causeway Streets.

We will write separately concerning the other issues that we have discussed.

We look forward to meeting with you on March 24th at 3:00 P.M. to discuss these suggestions.
If you have any questions, please let us know.

Sincerely,

Carol Rose
Executive Director
ACLU of Massachusetts

John Reinstein
Legal Director
ACLU of Massachusetts

Sarah Wunsch
Staff Attorney
ACLU of Massachusetts

Urszula Masny-Latos
Executive Director
National Lawyers Guild
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Jeffrey Feuer
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